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9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14 OPLINK COMMUNICATIONS, INC.,

15 Plaintiffs,

16 v.

17 O-NET COMMUNICATIONS
18 (SHENZHEN) LIMITED; MULTIWAVE
DIGITAL SOLUTIONS, INC.;
19 CHUNMENG WU, AN INDIVIDUAL,

20 Defendants.
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Case No. C 07-4582 MJJ

**PLAINTIFF OPLINK
COMMUNICATIONS INC.'S REPLY TO
O-NET AND MULTIWAVE'S FIRST
AMENDED COUNTERCLAIMS FOR
DECLARATORY JUDGMENT OF NON-
INFRINGEMENT AND INVALIDITY**

DEMAND FOR JURY TRIAL

Date of Filing: September 17, 2006

Trial Date: None Set

PLAINTIFF'S REPLY TO COUNTERCLAIMS

Plaintiff Oplink Communications, Inc. ("Oplink") hereby submits this Reply to the First Amended Counterclaims of defendants O-Net Communications (Shenzhen) Limited ("O-Net") and Multiwave Digital Solutions, Inc.'s ("Multiwave") (collectively "Defendants"):

Parties

1. Oplink is informed and believes, and on that basis admits the allegations contained in paragraph 1 of Defendants' Counterclaims for Declaratory Relief.

2. Oplink is informed and believes, and on that basis admits the allegations contained in paragraph 2 of Defendants' Counterclaims for Declaratory Relief.

3. Oplink admits the allegations contained in paragraph 3 of Defendants' Counterclaims for Declaratory Relief.

Jurisdiction and Venue

4. Oplink admits that O-Net Shenzhen and Multiwave have asserted counterclaims pursuant to 28 U.S.C. §§ 2201 and 2202, the patent laws of the United States, Title 35 of the United States Code and Federal Rule of Civil Procedure 13. Oplink denies the other allegations of paragraph 4.

5. Oplink admits the allegations contained in paragraph 5 of Defendants' Counterclaims for Declaratory Relief.

6. Oplink admits the allegations contained in paragraph 6 of Defendants' Counterclaims for Declaratory Relief.

7. Oplink admits the allegations contained in paragraph 7 of Defendants' Counterclaims for Declaratory Relief.

8. Oplink admits that an actual controversy exists between Oplink on the one hand and O-Net Shenzhen and Multiwave on the other concerning infringement and validity of the '829, '919 and '129 Patents.

**First Counterclaim
Declaration of Non-Infringement**

9. Oplink hereby incorporates by reference its responses to paragraphs 1-8 of this

1 Reply as though fully set forth herein.

2 10. Oplink admits the allegations contained in paragraph 10 of Defendants' First
3 Counterclaim.

4 11. Oplink admits the allegations contained in paragraph 11 of Defendants' First
5 Counterclaim.

6 12. Oplink denies the allegations contained in paragraph 12 of Defendants' First
7 Counterclaim.

8 13. Oplink denies the allegations contained in paragraph 13 of Defendants' First
9 Counterclaim.

10 14. Regarding paragraph 14 of Defendants' First Counterclaim, Oplink admits that
11 O-Net Shenzhen and Multiwave seek a declaration that they do not infringe the '829, '919 and
12 '129 Patents and that they are not liable as infringers. Oplink denies that O-Net Shenzhen and
13 Multiwave are entitled to any such relief.

14 **Second Counterclaim**
15 **Declaration of Invalidity of the '829 Patent**

16 15. Oplink hereby incorporates by reference its responses to paragraphs 1-14 of this
17 Reply as though fully set forth herein.

18 16. Oplink admits the allegations contained in paragraph 16 of Defendants' Second
19 Counterclaim.

20 17. Oplink admits the allegations contained in paragraph 17 of Defendants' Second
21 Counterclaim.

22 18. Oplink denies the allegations contained in paragraph 18 of Defendants' Second
23 Counterclaim.

24 19. Regarding paragraph 19 of Defendants' Second Counterclaim, Oplink admits that
25 it has and continues to suffer damage as a result of Defendants' infringing activities. Oplink
26 denies the remaining allegations contained in paragraph 19.

20. Regarding paragraph 20 of Defendants' Second Counterclaim, Oplink admits that O-Net Shenzhen and Multiwave seek a declaration that the claims of Oplink's '829 Patent are invalid for failure to satisfy one or more of the Conditions of Patentability specified in 35 U.S.C. §§ 101, 102, 103 and 112. Oplink denies that the claims of Oplink's '829 Patent are invalid.

**Third Counterclaim
Declaration of Invalidity of the '919 Patent**

21. Oplink hereby incorporates by reference its responses to paragraphs 1-20 of this Reply as though fully set forth herein.

22. Oplink admits the allegations contained in paragraph 22 of Defendants' Third Counterclaim.

23. Oplink admits the allegations contained in paragraph 23 of Defendants' Third Counterclaim.

24. Oplink denies the allegations contained in paragraph 24 of Defendants' Third Counterclaim.

25. Regarding paragraph 25 of Defendants' Third Counterclaim, Oplink admits that it has and continues to suffer damage as a result of Defendants' infringing activities. Oplink denies the remaining allegations contained in paragraph 25.

26. Regarding paragraph 26 of Defendants' Second Counterclaim, Oplink admits that O-Net Shenzhen and Multiwave seek a declaration that the claims of Oplink's '919 Patent are invalid for failure to satisfy one or more of the Conditions of Patentability specified in 35 U.S.C. §§ 101, 102, 103 and 112. Oplink denies that the claims of Oplink's '919 Patent are invalid.

**Fourth Counterclaim
Declaration of Invalidity of the '129 Patent**

27. Oplink hereby incorporates by reference its responses to paragraphs 1-26 of this Reply as though fully set forth herein.

28. Oplink admits the allegations contained in paragraph 28 of Defendants' Fourth Counterclaim.

29. Oplink admits the allegations contained in paragraph 29 of Defendants' Fourth Counterclaim.

30. Oplink denies the allegations contained in paragraph 30 of Defendants' Fourth Counterclaim.

31. Regarding paragraph 31 of Defendants' Fourth Counterclaim, Oplink admits that it has and continues to suffer damage as a result of Defendants' infringing activities. Oplink denies the remaining allegations contained in paragraph 31.

32. Regarding paragraph 32 of Defendants' Fourth Counterclaim, Oplink admits that O-Net Shenzhen and Multiwave seek a declaration that the claims of Oplink's '129 Patent are invalid for failure to satisfy one or more of the Conditions of Patentability specified in 35 U.S.C. §§ 101, 102, 103 and 112. Oplink denies that the claims of Oplink's '129 Patent are invalid.

Wherefore, Plaintiff and Counterclaim Defendant Oplink requests that this Court enter judgment in its favor and against Defendants as follows:

(a) Granting the relief requested by Oplink in the Second Amended Complaint of Plaintiff Oplink Communications, Inc. for Patent Infringement, Trade Secret Misappropriation, Breach of The Duty of Loyalty, Unfair Competition, Breach of Contract and Intentional Interference with Contractual Relations; and

(b) Such other relief as the Court deems proper.

Dated: December 3, 2007

WHITE & CASE LLP

By: /s/ Sam C. O'Rourke

Attorneys for Plaintiff
Oplink Communications, Inc.